

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO 1098 OF 1997

IN

SPECIAL CIVIL APPLICATION NO 10730 OF 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER
and
MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SANDEEP PRATAP SINGH

Versus

RAJASHREE JAGDISHANDRA SHAH

Appearance:

MR MC BHATT for Petitioner
M/S THAKKAR ASSOC. for Respondent No. 1
MR GN SHAH for Respondent No. 2 & 3.

CORAM : MR.JUSTICE C.K.THAKKER and
MISS JUSTICE R.M.DOSHIT
Date of decision: 23/10/97

ORAL JUDGEMENT

Mr. M.C.Bhatt, learned counsel for the appellant seeks permission to delete name of the respondent No.4 as he states that in the present proceedings, he does not claim any relief against the said respondent. Prayer granted. Respondent No.4 is ordered to be deleted.

Admitted.

Mr. Pahwa, learned advocate appears and waives service of notice of admission on behalf of respondent No.1 and Mr. G.N.Shah, learned counsel appears and waives service of notice of admission on behalf of respondents Nos. 2 and 3. In the facts and circumstances of the case, the matter is taken up for final hearing today.

This appeal is filed against interim order passed by the learned Single Judge on August 6, 1996 in Special Civil Application No. 10730 of 1996. That petition is filed by the respondent No.1, in which Rule is issued, it was made returnable on November 24, 1997. Meanwhile, however, the learned Single Judge was pleased to issue direction to the respondents "to maintain status-quo" as on that day till further orders.

An advertisement was issued by Bharat Petroleum Corporation Ltd. Mumbai, for awarding LPG Distributorship for Ahmedabad-A area. Interviews were taken on March 27, 1996 by Oil Selection Board and it is case of the appellant that a merit list was prepared for granting LPG Distributorship wherein he was placed at Sr. No.1. In March 1996, the recommendation was sent by the Oil Selection Board to Bharat Petroleum in favour of the appellant as he was at Sr.No.1. At that stage, the above petition came to be filed by the petitioner.

Since Rule is issued and petition is pending for final hearing, we do not intend to express any opinion one way or the other on merits, as it may cause prejudice to one of the parties to the petition. The sole contention of Mr. Bhatt, learned counsel for the appellant is that when a merit list was prepared, and the appellant is placed at Sr.No.1, whereas the petitioner was placed at Sr.No.2, till the controversy raised by the petitioner is finally decided, case of the petitioner could not be considered. In view of interim order passed by the learned Single Judge, even though the appellant was placed at Sr.No.1 his case was not considered. The authorities will not consider the case till the disposal

of the petition in view of the interim order passed by the learned Single Judge. He submitted that over and above, the grievance of the appellant, which is of personal and individual in character, the public at large will also suffer inasmuch as till the disposal of the petition, nothing can be done in the matter. He further submitted that after the merit list was prepared, some communication was addressed subsequently on 3rd March, 1997, (Annexure II, page-75 of the paper book) by Deputy Co-ordinator, which, according to Mr. Bhatt was, unauthorised and uncalled for and interference in the functioning of the Board. We are not expressing any opinion on that aspect also. It is open to the parties to raise all contentions before the learned Single Judge. But in view of the fact that the matter is not finally decided and the appellant was at Sr.No.1 in the merit list, during the pendency of the petition, according to us, learned Single Judge ought not to have granted interim relief.

For the foregoing reasons, we are of the view that interim order passed by the learned Single Judge was not proper and ought not to have been granted. It is hereby vacated. Appeal is allowed. The interim order dated August 6, 1997 passed by the learned Single Judge in Special Civil Application No. 10730 of 1996 is hereby set aside.

We may clarify that we have not observed anything on merits. As and when the petition will be placed before the learned Single Judge, the learned Single Judge will decide the same in accordance with law on its own merits.

(C.K.THAKKER J)

(MS R.M.DOSHIT J)

JOSHI